

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DOUGLAS AVERY,	)
	)
Plaintiff,	)
	)
v.	)
DEPARTMENT OF CORRECTIONS SCI	) Civil Action No. 1:12-166
FOREST, et al.,	) Judge Nora Barry Fischer
	) Magistrate Judge Susan Paradise Baxter
Defendant.	)

**O R D E R**

AND NOW, this day of 1<sup>st</sup> day of October, 2013, after Plaintiff filed a *pro se* Complaint in the above-captioned case on July 25, 2012, and after a Report and Recommendation was filed by the United States Magistrate Judge on September 11, 2013, (Docket No. [23]) recommending that the instant matter be dismissed under Rule 41(b) of the Federal Rules of Civil Procedure due to Plaintiff's failure to prosecute, and further granted the parties fourteen (14) days or until September 25, 2013, to file written objections thereto, and Plaintiff having filed no objections to same by the date of this Order, and upon independent review of the record, and upon consideration of the Magistrate Judge's Report and Recommendation, which is adopted as the opinion of this Court,

IT IS HEREBY ORDERED that Plaintiff's Complaint [1] is DISMISSED, for failure to prosecute.

IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, if any party wishes to appeal from this Order a notice of appeal, as provided in Fed. R. App. P. 3, must be filed with the Clerk of Court, United States District Court,

at 700 Grant Street, Room 3110, Pittsburgh, PA 15219, within thirty (30) days.

*s/Nora Barry Fischer*

Nora Barry Fischer  
United States District Judge

cc/ecf: All Counsel of Record  
Honorable Susan Paradise Baxter  
United States Magistrate Judge

cc: Douglas Avery  
JU7684  
SCI Forest  
P.O. Box 945  
Marianville, PA 16239  
(by regular mail)